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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,975	11/13/2001	Shunji Imai	43890-552	6015

7590 12/05/2006
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/986,975	Applicant(s) IMAI ET AL.	
	Examiner Joseph L. Perrin, Ph.D.	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-36 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 and 23-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 29 September 2006 have been fully considered but they are not fully persuasive.
2. Regarding the rejection over 35 USC §103, in view of the instant amendment applicant's arguments are persuasive and the rejection is withdrawn.
3. Regarding the rejection over 35 USC §112, first paragraph, applicant argues that "Applicants' figures clearly illustrate" the claimed protrusions and "support a sufficient amount of scope thereof", citing the caselaw of *Lockwood v. American Airlines, Inc.* However, the *Lockwood* caselaw clearly states that in satisfying the written description requirement "[o]ne does that by such *descriptive means as words, structures, figures, diagrams, formulas, etc., that fully set forth the claimed invention*" (emphasis added) and that "the specification must contain an equivalent description of the claimed subject matter". Clearly, applicant's broad recitation of "protrusions" on the stirring blade disk is significantly broader in scope than the specific protrusions in the figures, thus failing to include descriptive figures which fully set forth the claimed invention. That is, the broadly claimed "protrusions" read on all types of protrusions whereas the figures specifically describe one specific type of protrusion. Should applicant wish to claim "protrusions" in view of the figures in order to set forth descriptive means to fully set forth the claimed invention, applicant is required to claim only the type of "protrusion" described in the figures and not the much broader scope of

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"protrusions" as claimed, such broad scope being considered new matter. Moreover, applicant is also required to amend the specification in the description of the figures to contain an equivalent description of the claimed "protrusions".

4. The Examiner notes that should applicant comply with these requirements and amend the protrusions to read on the protrusions in the figures and to amend the specification to include an adequate description of the protrusions in the figures, such action would be considered to satisfy the requirements of 35 USC §112, first paragraph.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-3, 5-10 & 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed stirring blade with a "disk disposed on a shaft of the rotary drive unit inside the washing tank, said disk having protrusions extending only upwardly therefrom" (emphasis added) is considered new matter because applicant's original disclosure does not adequately describe such structure and it does not appear applicant had possession of the scope of such claimed

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subject matter at the time the application was filed. The Examiner further notes that applicant's original disclosure is textually silent with respect to such language.

Moreover, the Examiner notes that applicant's "stirring blade" as shown in the Figures is not commensurate in scope with the broadly claimed "disk" having "protrusions extending only upwardly therefrom". Accordingly, such description of the stirring blade is considered new matter and should be removed. Even if, *arguendo*, applicant were to provide a picture claim of the original disclosed "stirring blade" structure, the Examiner notes that the admitted prior art of applicant (Figure 41) evidences that such structure is known and, thus, is not considered the point of novelty of applicant's invention.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

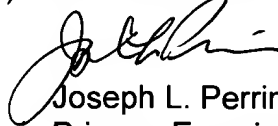
8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP